

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

NORMAN DALE UNVERZAGT,)	
)	
Petitioner,)	
)	
vs.)	Case No. 16-03497-CV-S-ODS
)	Crim. No. 04-03156-01-CR-S-ODS
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER STAYING PROCEEDINGS

Pending is Petitioner Norman Dale Unverzagt's Second Motion to Correct Sentence under 28 U.S.C. § 2255. Doc. #4. Petitioner seeks to be resentenced pursuant to *Johnson v. United States*, 135 S. Ct. 2551 (2015), which held the Armed Career Criminal Act's ("ACCA") residual clause unconstitutional. Specifically, Petitioner asserts his two convictions for second-degree burglary of buildings do not qualify as predicate offenses under the ACCA's "violent felony" provision. 18 U.S.C. § 924(e). The Eighth Circuit has held second-degree burglary of a building is a predicate offense under the ACCA's "violent felony" provision. See *United States v. Sykes*, 844 F.3d 712, 715 (8th Cir. 2016). The Government, therefore, contends Petitioner's sentence is still proper under the ACCA. Doc. #7.

In the reply suggestions in support of his motion, Petitioner notes a petition for rehearing en banc of the *Sykes* decision is pending before the Eighth Circuit, and urges the Court to stay this matter pending resolution of the petition for rehearing en banc. Doc. #9. "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 249 (1936). Thus, district courts have the discretion "to stay proceedings in one suit until the decision of another." *Id.* The Court stays all proceedings in this case until the petition for rehearing en banc in *Sykes* is fully resolved by the Eighth Circuit or the United States Supreme Court.

IT IS SO ORDERED.

DATE: March 9, 2017

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT